

February 10, 2009

The regular meeting of the Council of the City of Martinsville, Virginia, was held on February 10, 2009, in Council Chambers, Municipal Building, at 7:30 PM, with Mayor Kathy Lawson presiding. Council Members present included: Mayor Kathy Lawson, Vice Mayor Kimble Reynolds, Gene Teague, Mark Stroud, Sr., and Danny Turner. Staff present included: Clarence Monday, City Manager, Leon Towarnicki, Brenda Prillaman, Eric Monday, Wayne Knox, Mike Rogers, Linda Conover, Cindy Dickerson, Danny Wimmer, Jennifer Brown, Tim Porter, Eddie Cassidy, Robert Ramsey and Linda Kanode.

Following the invocation by Vice Mayor Kimble Reynolds and Pledge to the American Flag, Mayor Lawson welcomed everyone to the meeting.

On a motion by Kimble Reynolds, seconded by Gene Teague, Council approved with a 5-0 vote, the minutes of City Council's meetings of January 27, 2009 and February 2, 2009.

Police Chief Mike Rogers introduced Donald Allen, Law Enforcement Liaison, Virginia Highway Safety Office. Mr. Allen made the presentation of the Virginia Law Enforcement Challenge Award to the Martinsville City Police Department for their traffic safety accomplishments. He explained the Virginia Law Enforcement Challenge is an innovative program that provides an avenue to stimulate traffic law enforcement in any police or sheriff agency. The program targets three major traffic safety priorities; occupant protection, impaired driving and speeding. The Martinsville Police Department was awarded Rookie of the Year and placed first in Category Three division. Chief Rogers commended all police staff members who worked on this project and he also thanked the citizens for all their assistance in reducing traffic accidents.

Police Chief Mike Rogers briefed Council on the Police Department's Citizen of the Year Award which is given to a citizen for outstanding contributions to the community and support for the police department in its efforts to better serve the citizens. Employees of the department submit nominations for the award to a selection committee of seven members of the department who review the applications and then present their recommendation to the Police Chief. The recipient for 2008 Citizen of the Year Award is Eric Keiselbach who is pastor of Kearfott Memorial Baptist Church and a Guidance Counselor at Harden Reynolds Elementary School in Patrick County. In his service as police chaplain, Eric is available 24 hours a day to provide

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spiritual support and encouragement to city police officers prior to and during stressful situations.

City Manager Clarence Monday welcomed Joe Williams, Interim Executive Director of Piedmont Arts Association. Mr. Monday briefed Council on how he saw that many of the programs at PAA fit in with Council's goals and he felt it would be beneficial for Mr. Williams to share the information with Council and the public. Mr. Williams presented a power point presentation outlining their programs. He pointed out the organization was awarded accreditation by the American Association of Museums and is only among 7% accredited in the United States having this distinction. Having this accreditation allows the organization to have access to exhibits that other museums are unable to show. Mr. Williams highlighted Studio 107 which will contribute to the revitalization of the Uptown area. He pointed out that the total annual budget of Piedmont Arts is \$870,000 with funding sources of: corporate sponsors, membership, city and county government support, Virginia Commission of Arts, and grants.

Debbie Robinson, Tourism Director of M-HC Economic Development Corporation, made a presentation to the Council for the EDC as Mark Heath was unable to attend the meeting due to a conflict. Ms. Robinson described her thoughts on the importance of tourism to the area's growth and indicated that EDC tourism staff is conducting an assessment of tourism resources and assets. Before coming to Martinsville, Ms. Robinson advised she worked extensively with the Crooked Road Project, Virginia's Music Heritage Trail and also worked as tourism director in Galax before coming to Martinsville.

After lengthy discussion, a motion was made by Gene Teague, seconded by Kimble Reynolds, to adopt the ordinance stating that the City alone is to aggregate demand response of retail customers in accordance with FERC order 719. Council Member Turner made a parliamentary inquiry regarding the emergency ordinance as outlined in City Code. With the following 4-1 recorded vote, Mrs. Lawson-aye, Mr. Teague-aye, Mr. Reynolds-aye, Mr. Stroud-aye, and Mr. Turner-nay, Council approved to adopt the following ordinance on an emergency basis with the motion including that an emergency does exist:

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BE IT ORDAINED by the Council of the City of Martinsville, Virginia, in Regular Session held on February 10, 2009, dispensing with a second reading such that this Ordinance shall take effect immediately, that Section 7-13 be added to Chapter 7 of the Code of the City of Martinsville to read as follows:

Sec. 7-13. City alone to aggregate demand response of retail customers in accordance with FERC order 719.

WHEREAS, the City of Martinsville, Virginia (hereinafter "City") owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, On October 28, 2008 the Federal Energy Regulatory Commission ("FERC" or "Commission") issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 ("Order 719").

WHEREAS, Order 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: "Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator's or regional transmission organization's organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate."

WHEREAS, Order No. 719, 18 C.F.R. § 35.28(g)(1)(i)(A) provides: "Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator's or regional transmission organization's bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority."

WHEREAS, the City Council has determined that it would be harmful to the demand response program to be implemented by the City, the collective interests of the City's electric utility system, and the City's retail customers, to permit any entity other than the City to aggregate demand response on behalf of its retail customers.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Martinsville, Virginia, that:

A. The City Council, as the retail electric regulatory authority for the City and its retail electric consumers, determines it to be desirable that the aggregation of demand response on behalf of its retail customers to be bid directly into the organized electric and ancillary services markets administered by the regional transmission organization that includes the City (or any successor independent system operator or regional transmission organization) be performed by the City or its authorized designee.

B. The City or its authorized designee is the sole entity permitted to aggregate retail customers' demand response and bid demand response on behalf of retail customers of the City directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.

C. Retail customers on the City's electric system desiring to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so only by participating in the program established by the City or its authorized designee.

D. The City or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers of the City directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).

E. Retail customers of the City's electric system desiring to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so only by participating in the program established by the City or its authorized designee.

F. The Director of the Electric Department is authorized to adopt any necessary regulations to implement this Ordinance.

G. If any section, subsection, paragraph, clause or provision or any part thereof of this Ordinance shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Ordinance shall be unaffected by such adjudication and all the remaining provisions of this Ordinance shall remain in full force and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

Council asked that this item be included on the February 24, 2009 agenda for public input and for a second reading to avoid any legal challenge. Discussion points included: this ordinance protects the city's retail market and deals solely with purchase of power and protects the residential customers' rates; it is possible that third party aggregators will start accepting bids beginning February 2009 and this could make an impact if ordinance is not adopted at this meeting; there was discussion on the need for more time to study the issue before voting; stressed this ordinance deals solely with purchase of power and has nothing to do with the agreements that city has already agreed upon with AMP-Ohio; discussion on requirements for adopting on emergency basis with city attorney pointing out that Council can adopt the ordinance at tonight's meeting on an emergency basis; Council

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does have the option of rescinding the ordinance after hearing public comments at the next meeting if Council desires to do so.

On a motion by Danny Turner, seconded by Gene Teague, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, aye, Council approved the following two amendments to Electric Terms & Conditions:

(1) Addition of a 22,000 lumen, 200 watt high pressure sodium outdoor light at a monthly rate of \$17.50 to the Outdoor Lighting Schedule

(2) Amend Article VIII of Terms and Conditions, disconnection and Reconnection, Section 8.1 C. to read as follows: service shall not be disconnected when the outside temperature is below 35 degrees or above 92 degrees or projected to be so by the National Weather Service, within: (1) the next 24 hour period; (2) weekend; or (3) City, State or Federal holidays.

Discussion regarding utility disconnections included: Mayor Lawson stated it should be a policy of the city to call customers before their utilities are cut off; Mr. Stroud pointed out there should be a back up procedure in place if not able to reach the citizen; Mayor Lawson pointed out that if a customer knows they cannot pay their bill to please call the city to make payment arrangements.

On a motion by Gene Teague, seconded by Danny Turner, Council approved with a 5-0 vote, the following consent agenda:

BUDGET ADDITIONS FOR 02/10/2009				
ORG	OBJECT	DESCRIPTION	DEBIT	CREDIT
<u>FY09</u>				
<u>GENERAL FUND</u>				
01101917	442402	Categorical Other State - Confiscated Assets - C Atty		282
01221082	506105	Comm Atty - Conf Assets State	282	
01101917	442401	Categorical Other State - Confiscated Assets - Police		847
01311085	506078	Police Dept - Conf Assets State	847	
For the Addition of State Asset Forfeiture monies to both the Commonwealth's Attorney's and Police Department's Budgets				
Total General Fund:			1,130	1,130
AMENDMENTS AS REQUESTED BY SCHOOL PERSONNEL.				
<u>SCHOOL FUND:</u>				
18102926	418246	Special Ed Title VIB Flow-Through		10,914
85001002	561121	Special Ed Title VIB Flow-Through	6,113	
85001002	561151	Special Ed Title VIB Flow-Through	36,033	
85001002	562210	Special Ed Title VIB Flow-Through	-11,612	
85001002	563140	Special Ed Title VIB Flow-Through	-5,000	
85001002	566013	Special Ed Title VIB Flow-Through	-14,620	

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Amendment to accommodate additional funding and line item adjustments.			
18101918	418309	Gear Up - Martinsville High School	23,240
75001033	561121	Gear Up - Martinsville High School	13,640
75001033	565503	Gear Up - Martinsville High School	6,600
75001033	563140	Gear Up - Martinsville High School	1,000
75001033	566013	Gear Up - Martinsville High School	2,000
18101918	418309	Middle School Gear-Up Program	-20,000
65001033	561121	Middle School Gear-Up Program	-5,000
65001033	562100	Middle School Gear-Up Program	-310
65001033	562150	Middle School Gear-Up Program	-73
65001033	566013	Middle School Gear-Up Program	-14,617
Amendment to accommodate additional funding and line item adjustments between the High School and Middle School.			
18102926	418241	Special Ed Preschool Handicapped	-353
82001002	565700	Special Ed Preschool Handicapped	-353
Amendment to reflect a reduction in funding.			
Total School Fund:			13,801 13,801
AMENDMENTS AS REQUESTED BY SCHOOL PERSONNEL			
<u>FEDERAL PROGRAMS</u>			
The following program budgets are added as they are adopted/approved by the FedGovt.			
20102926	420116	Title I - Part A	863,642
85003006	561120	Title I - Part A - Salaries & Wages	104,072
85003006	561121	Title I - Part A - Teachers - Salaries & Wages	470,382
85003006	561151	Title I - Part A - Aides - Salaries & Wages	71,720
85003006	562100	Title I - Part A - Social Security	40,063
85003006	562150	Title I - Part A - Medicare	9,369
85003006	562210	Title I - Part A - Retirement	96,926
85003006	562300	Title I - Part A - Medical Insurance	32,400
85003006	562400	Title I - Part A - State Life Insurance	3,395
85003006	562520	Title I - Part A - L/T Disability	1,895
85003006	563140	Title I - Part A - Contracted Services	10,000
85003006	565503	Title I - Part A - Travel	3,000
85003006	566013	Title I - Part A - Instructional Materials & Supplies (Program for Title I - Part A)	20,420
20102926	420217	Title II - Part A	161,449
85003107	561121	Title II - Part A - Teachers - Salaries & Wages	115,550
85003107	562100	Title II - Part A - Social Security	7,164
85003107	562150	Title II - Part A - Medicare	1,676
85003107	562210	Title II - Part A - Retirement	18,000
85003107	562300	Title II - Part A - Medical Insurance	3,000
85003107	562400	Title II - Part A - State Life Insurance	2,000
85003107	562520	Title II - Part A - L/T Disability	1,410
85003107	563140	Title II - Part A - Contracted Services (Program for Title II - Part A)	12,649
20102926	420218	Title II - Part D	8,108
85003206	563140	Title II - Part D - Contracted Services	2,027
85003206	566013	Title II - Part D - Instructional Materials & Supplies (Program for Title II - Part D)	6,081
20102926	420232	Title III, Part A	18,939
85002502	561151	Title III, Part A - Aides - Salaries & Wages	12,750
85002502	562100	Title III, Part A - Social Security	800
85002502	562150	Title III, Part A - Medicare	180
85002502	563140	Title III, Part A - Contracted Services	500

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85002502	565503	Title III, Part A - Travel	1,500	
85002502	566013	Title III, Part A - Instructional Materials & Supplies (Program for Title III, Part A)	3,209	
20102926	420412	Title IV, Part A		12,623
85003306	563140	Title IV, Part A - Contracted Services	10,000	
85003306	566013	Title IV, Part A - Instructional Materials & Supplies (Program for Title IV, Part A - Safe & Drug Free)	2,623	
20102926	420312	Title VI, Part B		60,959
85003506	561121	Title VI, Part B - Teachers - Salaries & Wages	20,000	
85003506	562100	Title VI, Part B - Social Security	1,550	
85003506	562150	Title VI, Part B - Medicare	363	
85003506	563140	Title VI, Part B - Contracted Services	20,000	
85003506	566013	Title VI, Part B - Instructional Materials & Supplies (Program for Title VI, Part B - Rural Education)	19,046	
20102926	420170	Alcohol Abuse Reduction Grant		217,021
85003700	561120	Alcohol Abuse Reduction Grant - Salaries & Wages	40,000	
85003700	562100	Alcohol Abuse Reduction Grant - Social Security	2,480	
85003700	562150	Alcohol Abuse Reduction Grant - Medicare	580	
85003700	562210	Alcohol Abuse Reduction Grant - Retirement	6,800	
85003700	562300	Alcohol Abuse Reduction Grant - Group Medical Ins	2,800	
85003700	562400	Alcohol Abuse Reduction Grant - State Life Ins	340	
85003700	562520	Alcohol Abuse Reduction Grant - L/T Disability	200	
85003700	563140	Alcohol Abuse Reduction Grant - Contracted Services	68,550	
85003700	564110	Alcohol Abuse Reduction Grant - Other Sch Services	52,271	
85003700	565503	Alcohol Abuse Reduction Grant - Travel	8,000	
85003700	566013	Alcohol Abuse Reduction Grant - Instructional Mat/Sup (Program for Alcohol Abuse Reduction)	35,000	
Total Federal Programs Fund:			1,125,720	1,125,720

Assistant City Manager Leon Towarnicki presented to Council a review of the traffic signal study recently completed for the intersection of Moss Street and Market Street. Details included:

In response to your October 14, 2008 memo, a traffic signal warrant study has been completed for the above noted intersection and, in summary, conditions at the intersection were found to be essentially the same as those found during the 2004 signal study that concluded a signal installation was not warranted.

Background

An evaluation of the intersection of Market Street and Moss Street was conducted in accordance with criteria outlined in the Manual on Uniform Traffic Control Devices, 2003 Edition, Chapter 4C – Traffic Control Signal Needs Studies. Traffic count information was compiled by the Traffic Signal Division of the Public Works Department in late October, 2008 and traffic accident data for the 5 year period from January 1, 2004 through 2008 as compiled by the Martinsville Police Department was reviewed.

The Manual on Uniform Traffic Control Devices is a Federal Highway Administration document that contains standards for traffic control devices used in all 50 states. Generally, studies related to traffic signal needs compare conditions that exist at the intersection in question with 8 standard criteria or warrants as outlined in the MUTCD. If existing conditions at the intersection meet any of the criteria, it is typically considered as an indication that traffic conditions exist which may be improved by the installation of a traffic signal. Likewise, failure to meet any of the warrants is typically considered as an indication the intersection is functioning adequately as is and little, if any benefit would be gained by a signal installation. As always, sound engineering judgment should be applied taking into consideration all of the relevant data. It should also be noted that contrary to a popular public perception, installation of a traffic signal is not a cure-all for preventing vehicular and/or pedestrian accidents. Accidents will continue to occur although the type and severity may change.

Results and Recommendation

An analysis of the Market/Moss intersection indicates that none of the MUTCD warrants are met at this time. Traffic on Market Street is fairly light for a 4 lane street, averaging approximately 11,000 vehicles per day Monday through Friday, and dropping to approximately 7,500 vehicles per day on Saturday and Sunday. 6 am to 6 pm traffic is in the 600 to 800 vehicle per hour range and average vehicle speed is in the 33 to 34 mph range. Moss Street traffic was found to be in the 600 to 800 vehicle per day range.

Accident data for the years 2004, 2005, 2006, 2007, and 2008 indicates 11 reported accidents; 2 in 2004, 4 in 2005, 2 in 2006, 1 in 2007, and 2 in 2008; none involving pedestrians. Based on the results of the data available, it is not recommended that a traffic signal be installed at this time.

Discussion on traffic signal issue included: if Council decides to have a traffic signal installed, the in-house cost would be around \$35,000; questions raised on possibilities

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of a flashing light to reduce speed; point made that this is a very low visibility intersection; Council would like the issue of the signal light at Moss & Market to be studied by the Transportation Safety Commission and a recommendation presented back to Council; Council Member Stroud pointed out a citizen had approached him about need for a traffic signal at Salmon St. and East Church Street; Council also asked that the Transportation Safety Commission study this intersection for a traffic signal and report recommendations to Council; it was pointed out there is some limited coordination of traffic signals on Market Street.

Business from the floor: Assistant City Manager Leon Towarnicki reported that on Wednesday, Feb. 11, Feb. 18, and Feb. 25, rides on the PART transit system will be free. Pastor James Richardson inquired as to how to access copies of past Council minutes, Council handouts, and budgets and he was advised these documents are available on the city's website or can be obtained in the City Manager's office.

Comments by Council members: Vice Mayor Reynolds thanked all Council members for their attendance at VML Legislative Day and Virginia First Cities meeting; he also noted there was a strong showing regarding the 599 funds by the Chiefs of Police; Reynolds pointed out he would like the community gardens in urban spaces project to move forward. Stroud commended Dr. Kizner on his efforts on school budget issues. Turner thanked citizens for funding his trip to VML and advised he delivered information to Perriello and Warner regarding Sparta. Mayor Lawson advised a citizen contacted her with a concern about MHS baseball using Hooker Field; advised the governor spoke at the VML meeting regarding green spaces and incentives available to communities and she would like the City Manager to investigate conservation easements and report back to Council; the Mayor requested that the Public Information Office acquire a copy of the Hooker Furniture documentary and run it on MGTV for viewing by the citizens; Mayor Lawson reminded citizens of Feb. 18 worksession and asked for input from citizens on Council's goals; she also reminded the public of the public hearing scheduled for Feb. 24 on the Comprehensive Plan and advised that copies are available for public viewing.

Comments by the City Manager: Clarence Monday reported departmental budget reviews to be conducted this week and next week and revenues will be looked at early March; Mr. Monday also reported that on March 1, 2009, the City will become

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fiscal agent for the Southern Virginia Recreation Facilities Authority at no cost to the city taxpayer.

In accordance with Section 2.1-344 (A) of the Code of Virginia (1950, and as amended) and upon a motion by Kimble Reynolds, seconded by Gene Teague, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, aye, Council convened in Closed Session, for the purpose of discussing the following matters: (A) Appointments to boards and commissions as authorized by Subsection 1, (B) Consultation with legal counsel and briefings by staff members, attorneys or consultants pertaining to actual or probable litigation, or other specific legal matters requiring the provision of legal advice by such counsel, as authorized by Subsection 7, and (C) A prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community as authorized by Subsection 5.

At the conclusion of Closed Session, each returning member of Council certified that (1)only public business matters exempt from open meeting requirements were discussed in said Closed Session; and (2)only those business matters identified in the motion convening the Closed Session were heard, discussed, or considered during said Session. On a motion by Gene Teague, seconded by Kimble Reynolds, with the following 5-0 recorded vote: Mrs. Lawson, aye; Mr. Reynolds, aye; Mr. Stroud, aye; Mr. Teague, aye; and Mr. Turner, aye, Council returned to Open Session.

No action was taken on item (B) and (C) and the following action was taken on board appointments: On a motion by Kimble Reynolds, seconded by Gene Teague, Council approved with a 5-0 vote to appoint J. Ron Ferrill, 917 Hunting Ridge Road, to an unexpired four-year term ending 5/31/11 on the Henry County-Martinsville Social Services Board.

There being no further business, Mayor Lawson adjourned the meeting at 9:29 PM.

Clarence C. Monday
Clerk of Council

Kathy C. Lawson
Mayor